

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

EDWARD ARTHUR GRIFFIN,
Plaintiff,

Case No. 3:23-cv-01003-HZ

ORDER

v.

UNITED STATES OF AMERICA,
Defendant.

HERNANDEZ, District Judge.

Plaintiff has filed a “Notice of Voluntary Dismissal” (#7) in which he asks the Court to: (1) dismiss this prisoner civil rights case without prejudice; and (2) order that the Bureau of Prisons to refrain from collecting any additional money from his prison trust account toward the satisfaction of the \$350.00 civil filing fee associated with this case. The collection of the filing fee is a statutory requirement imposed by the Prison Litigation Reform Act and is not waivable. 28 U.S.C. § 1915(b)(1) (“the prisoner shall be required to pay the full amount of a filing fee”); *see also Porter v. Dep’t of Treasury*, 564 F.3d 176, 179 (3d Cir. 2009); *Goins v. Decaro*, 241 F.3d 260, 261-62 (2d Cir. 2001); *Williams v. Roberts*, 116 F.3d 116 F.3d 1126, 1127 (5th Cir. 1997). The Court therefore lacks authority to cease the ongoing collection of the filing fee.

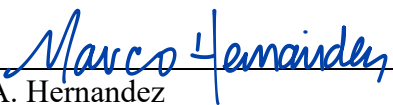
The Court construes the Notice of Voluntary Dismissal as Motion to Dismiss that is contingent upon the cancellation of the filing fee. Because the Court is not empowered to cancel the fee, the Court denies the Motion to Dismiss with leave to renew. If Plaintiff still wishes to dismiss his lawsuit with the understanding that he remains obligated to pay the civil filing fee as funds become available in his prison trust account, he may once again move to voluntarily dismiss the action.

CONCLUSION

Plaintiff's Motion to Dismiss (#7) is denied without prejudice.

IT IS SO ORDERED.

September 22, 2023
DATE



Marco A. Hernandez
United States District Judge